

Message Text

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ACTION L-03

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DEPT FOR L, S/NM AND ARA/AND

E.O. 11652: N/A
TAGS: PGOV, SNAR, PE, US
SUBJECT: REQUEST TO ENFORCE PERUVIAN EMBARGO DECREE IN A
COURT IN U.S.

REF: 75 STATE 165804, 75 LIMA 5877

1. EMBASSY HAS BEEN APPROACHED BY DR. NELSON DIAZ POMAR, ATTORNEY GENERAL OF PERU, REQUESTING INFORMATION REGARDING THE PROCEDURES ATO BE FOLLOWED IN ORDER THAT AN EMBARGO DECREE ISSUED BY A PERUVAIN CRIMINAL JUDGE CAN BE ENFORCED IN A FLORIDA COURT, AGAINST ASSETS BELONGING TO PERUVIAN CITIZENS, LOCATED IN MIAMI. DETAILS ARE AS FOLLOWS:

2. THE ACCUSED ARE OSCAR PINTO (RAMIREZ) AND JORGE ALVITES (SALEME); CRIMINAL CHARGES PENDING AGAINST THEM ARE FRAUD AGAINST THE GOP IN THE ILLICIT TRAFFIC IN FOREIGN CURRENCIES (VIOLATING EXCHANGE CONTROL LAW) PLUS FELONY AGAINST THE PATRIMONY OF BANCO POPULAR DEL PERU.

3. THESE CRIMINAL PROCEEDINGS DO NOT HAVE A FINAL JUDGEMENT YET. THEY ARE STILL IN FIRST INSTANCE STATUS (THIRD INSTANCE, WHICH IS SUPREME COURT, IS THE LAST STAGE OR INSTANCE UNDER PERUVIAN JUDICIAL SYSTEM). THE PROPOSED EMBARGO, THEREFORE, LIMITED OFFICIAL USE

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WOULD BE A PRECAUTIONARY STEP, AND NOT A DEFINITE EMBARGO.

4. EMBASSY WOULD APPRECIATE DEPARTMENT'S ADVICE AS TO WHETHER THE ENFORCEMENT OF SUCH A PRECAUTIONARY EMBARGO COULD BE MADE EFFECTIVE IN A MIAMI COURT AND WHETHER THE MATTER SHOULD BE BROUGHT BEFORE A STATE OR FEDERAL COURT. IF FEASIBLE, PLEASE PROVIDE US WITH A DETAILED OUTLINE OF THE REQUIRED PROCEDURES

AND DOCUMENTS TO BE OBTAINED.

5. THE EMBASSY DOES NOT KNOW IF THE PERUVIAN ATTORNEY GENERAL'S PROPOSAL TO ENFORCE A GOP DECREE IN A FLORIDA COURT IS LEGALLY POSSIBLE. IF SO, HOWEVER, THE DEPARTMENT MAY WISH TO WEIGH THE FOLLOWING TWO FACTORS IN FORMULATING RESPONSE: FIRST, USG HAS IN PAST (PURSUANT TO L'S INTEREST APPROACHED THE CHIEF LEGAL OFFICERS OF VARIOUS COUNTRIES INCLUDING PERU WITH A VIEW TO PROSECUTING NARCOTICS OFFENDERS ABROAD ON THE BASIS OF EVIDENCE GATHERED IN THE U.S. PERUVIAN AUTHORITIES INCLUDING ATTORNEY GENERAL DIAZ POMAR HAVE LOOKED FAVORABLY ON THIS IDEA. HE MAY CONSIDER HIS PRESENT PROPOSAL FOR ENFORCEMENT OF A PERUVIAN DECREE IN A FLORIDA COURT AS ANALOGOUS TO A FUTURE NARCOTICS PROSECUTION IN PERU BASED ON EVIDENCE GATHERED IN THE U.S.

6. ON THE OTHER HAND, THE U.S. HAS ON SOME PREVIOUS OCCASIONS SOUGHT TO PROTECT FORMER PERUVIAN OFFICIALS OR BUSINESSMENT LIVING IN THE U.S. WHEN WE CONSIDERED THAT GOP CHARGES BROUGHT AGAINST THEM (FOR, SAY, MISUSE OF FUNDS) WERE BASED ON POLITICAL FACTORS, OR WHEN THE CHARGES WERE IMPROPER, AS IN THOSE RELATING TO THE IPC CASE (REFTELS).

7. PINTO IS FORMER PERUVIAN PRESIDENT VELASCO'S SON-IN-LAW. IT IS GENERALLY "KNOWN" HERE THAT PINTO WAS INVOLVED IN MANY QUESTIONABLE DEALINGS WHEN VELASCO WAS IN OFFICE. THE CASE AGAINST HIM IS BEING MADE IN THE GENERAL CONTEXT OF THE "MORALIZATION" CAMPAIGN AGAINST VELASCO-ERA LUMINARIES THAT CURRENT PRESIDENT MORALES BERMUDEZ INSTITUTED WHEN HE TOOK OFFICE. THE BASIS FOR LIMITED OFFICIAL USE

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THE CAMPAIGN IS POLITICAL AS WELL AS LEGAL. WHAT WOULD BE THE IMPLICATIONS OF ENFORCING THE PRESENT PERUVIAN EMBARGO DECREE IN A STATE COURT FOR ANY FUTURE CASES THAT MIGHT INVOLVE PERUVIAN EXILES THE U.S. WISHED TO PROTECT FROM POLITICAL HARASSMENT?

8. THE EMBASSY WOULD APPRECIATE AN EARLY RESPONSE.
DEAN

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